

1 NOT FOR PUBLICATION
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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8
9 Isaac Steven Valle,

10 Petitioner,

11 v.

12 Panann Days.

13 Respondent.

No. CV-18-04963-PHX-SRB (MHB)

ORDER

14 Petitioner filed an Application for Leave to File a Second or Successive Petition for
15 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 in the Ninth Circuit Court of Appeals.
16 On April 22, 2019 the Ninth Circuit denied the Application as unnecessary and transferred
17 the Petition to this Court. On July 18, 2019 Respondent filed a Limited Answer and Petitioner
18 filed a Reply on September 10, 2019. Petitioner raised six grounds for relief. 1) his sentence
19 violated the Eight Amendment’s prohibition of cruel and unusual punishment, 2) Petitioner’s
20 due process rights were violated during the post-conviction relief proceedings, 3) Arizona
21 Revised Statutes § 13-716 “violates ex post facto principles because the statute imposed a
22 harsher form of ‘parole’ than was given to Petitioner; 4) Petitioner’s Fourteenth Amendment
23 rights were violated because the Arizona Department of Corrections has erroneously treated
24 him as serving a sentence of “natural life” rather than a “life sentence,” 5) the trial court
25 violated Petitioner Fourteenth Amendment rights when the trial court construed Petitioner’s
26 Motion for a Clarification of Sentence as a Motion for Rule 32 Post-Conviction Relief; and
27 6) the trial court abused its discretion when it dismissed Petitioner’s Rule 32 Petition and
28 refused to appoint counsel.

1 On December 23, 2019, the Magistrate Judge issued her Report and
2 Recommendation recommending that the Petition be denied and dismissed with prejudice.

3 In her Report and Recommendation the Magistrate Judge advised the parties that
4 they had fourteen days from the date of service of a copy of the Report and Recommendation
5 within which to file specific written objections with the Court. The time to file such
6 objections has expired and no objections to the Report and Recommendation have been filed.

7 The Court finds itself in agreement with the Report and Recommendation of the
8 Magistrate Judge.

9 **IT IS ORDERED** adopting the Report and Recommendation of the Magistrate
10 Judge as the order of this Court. (Doc. 16)

11 **IT IS FURTHER ORDERED** denying the Petition for Writ of Habeas Corpus and
12 dismissing it with prejudice because it was untimely. (Doc. 1)

13 **IT IS FURTHER ORDERED** denying any Certificate of Appealability and leave
14 to proceed in forma pauperis on appeal because dismissal of the Petition is justified by a
15 plain procedural bar and jurists of reason would not find the procedural ruling debatable.

16 **IT IS FURTHER ORDERED** directing the Clerk to enter judgment accordingly.

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18 Dated this 21st day of January, 2020.

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23 Susan R. Bolton
24 United States District Judge
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